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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,716	01/04/2001	Christian M. Hoebener	DAL0002.01	2096

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EXAMINER

LE, TAN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,716

Applicant(s)

HOEBENER ET AL.

Examiner

Tan Le

Art Unit

3632

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8 and 13-15 is/are allowed.
- 6) ☒ Claim(s) 1, 10, 11, 21-23 and 26-29 is/are rejected.
- 7) ☒ Claim(s) 12, 24, 25 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the fourth office action for serial number 09/754,716. This action responds to an amendment filed 6/09/03. This application contains 24 claims numbered 1-8, 10-15 and 21-30. Claim 9 has been canceled in the previous office action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by
Omni Mount System (Website pages (12/15/99)) (IDS)

Omni Mount Systems discloses a mount 10 including a frame, the frame including an upper catch part with a slot therein that is located centrally to side portions of the frame, and a swivel part suspended from a support (for tilting, both tilt and hold), wherein the swivel part is fitted into the slot and engages the catch part. Omni Mount System also discloses that the slot has a width being wider than the swivel part where the swivel part is fitted into the slot and narrower than the swivel part where the swivel part engages the catch part (top part of the slot being narrower than the middle part of the slot, the top part of the slot being held the swivel part when the swivel part engages the catch part).

Claims 1 and 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5,927,668 to Cyrell.

Cyrell discloses a mount including a frame (14), the frame including an upper catch part (138) (see also col. 9, lines 30-35) with a slot therein that is located centrally to side portions of the frame, and a swivel part suspended from a support (tilting mechanism), wherein the swivel part is fitted into the slot and engages the catch part. Cyrell also discloses that the slot has a width being wider than the swivel part where the swivel part is fitted into the slot and narrower than the swivel part where the swivel part engages the catch part (top part of the slot being narrower than the middle part of the slot, the top part of the slot being held the swivel part when the swivel part engages the catch part).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-11, 22-23, 26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cyrell or Omni Mount Systems.

Regarding claims 10, 21, 27 and 29, Omni Mount Systems or Cyrell discloses substantially as claimed except for the shape being a barrel-shaped rather than a helical or spherical shape as disclosed in Cyrell or Omni Mount Systems.

It would have been an obvious matter of design choice to make the swivel part to be barrel in shape, since applicant has not disclosed that a barrel-shape solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the swivel part formed to shapes other than barrel-shaped. Nevertheless, the particular shape claimed by the Applicant is nothing more than one of numerous shapes that a person having ordinary skill in the art provides for using routine experimentation based on its suitability for the intended use of the invention. See *In Re Daily*, 149 USPQ 47 (CCPA 1976)

Regarding claim 11, Cyrell or Omni Mount Systems as modified also teaches the catch part including a retainer (Cyrel (left side of other half of the catch part), Omni (jaw)) intersected by the slot, the retainer having an arcuate portion located adjacent the barrel shaped member, the arcuate portion pivoting relative thereto.

Regarding claims 22-23 and 26, Cyrell or Omni Mount Systems as modified also teaches the swivel part being partially located through the slot and being restrained from horizontal movement relative to the catch part; the swivel part being attached to the support and the catch part being attached to a frame holding the appliance.

.Allowable Subject Matter

4. Claims 12 and 24-25 and 30 are objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claims 2-8 and 13-15 are allowed.

Response to Arguments

5. Applicant's arguments filed on 6/09/03 have been considered but are moot in view of the new ground(s) of rejection.

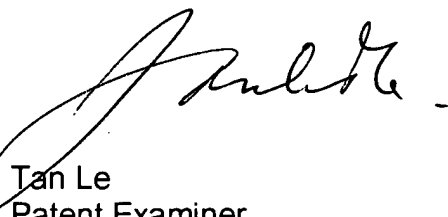
Conclusion

6. **THIS ACTION IS MADE NON- FINAL.**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Le, whose telephone number is 703.305.8244. The Examiner can normally be reached on Tuesday through Thursday, 9:00-6:00 and alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for official communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Group receptionist at 703.308.2168.



Tan Le
Patent Examiner
AU 3632
September 05, 2003.